

Message Text

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TAGS: EINV, OECD
SUBJECT: MEETING OF INFORMAL CONTACT GROUP OF
COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL
ENTERPRISES (CIME) JULY 5, 1978

REF: PARIS 21405

SUMMARY

1. CIME INFORMAL CONTACT GROUP ON WORK IN OTHER FORA
(COLLI GROUP) REVIEWED PREPARATIONS FOR AUGUST NEW
YORK MEETING OF UN CODE OF CONDUCT WORKING GROUP AND
ASSIGNED RESPONSIBILITIES FOR LEADERSHIP OF COLLI
GROUP'S FORTHCOMING DISCUSSIONS IN NEW YORK ON VARIOUS
CODE ISSUES TO BE COVERED. GROUP DISCUSSED SOUTHERN
AFRICA AND HANDLING OF UN CODE-RELATED WORK OF OTHER
BODIES (ILO DECLARATION, RBP'S, TRANSFER OF TECHNOLOGY,
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AND ILLICIT PAYMENTS). NEED FOR PLANNING APPROACH TO
SUBSEQUENT UN CODE MEETINGS RECOGNIZED, BUT WAS NOT
EXPLORED. UN TNC CENTER ACTIVITIES DISCUSSED BRIEFLY
IN LIGHT OF VIENNA TNC COMMISSION RESULTS. U.S. AND
SWISS WERE REBUFFED IN EFFORTS TO HAVE GROUP FOLLOW UP
EXCHANGE OF VIEWS BEGUN IN JULY 3 - 4 CIME ON ICSID
"ADDITIONAL FACILITY" (REFTEL). CURRENT STATUS OF

SUGGESTION FOR OECD-WIDE MEETING ON SOUTH AFRICAN CODES OF CONDUCT ALSO REVIEWED. U.S. (BOERNER) CHAIRMANSHIP OF GROUP AFTER COLLI DEPARTURE WAS RAISED IN PRIVATE CONTACTS, WITH NO OTHER CONTENDERS OR SERIOUS OPPOSITION IDENTIFIED.
END SUMMARY

SOUTHERN AFRICA AND SOUTH AFRICA

2. WHILE SWISS DEL (LEVY) EXPRESSED FIRM POSITION THAT SOUTHERN AFRICA ISSUES DO NOT BELONG IN UN CODE, COLLI GROUP CONSENSUS WAS THAT ISSUES WILL HAVE TO BE DEALT WITH, AND THAT DEBATE ON SOUTHERN AFRICA IN PLENARY SESSION OF UN CODE WORKING GROUP IN AUGUST IS CERTAIN. THIS CONCLUSION CONFIRMED BY FRENCH DEL'S REPORT OF FIRM POSITION OF AFRICAN COUNTRIES ON LAST DAY OF MEETING OF ILLICIT PAYMENTS WORKING GROUP IN NEW YORK THAT INCLUSION OF SOUTHERN AFRICA ARTICLE IN AGREEMENT IS A SINE QUA NON FOR THEIR SUPPORT. U.S. DEL (KAUZLARICH) AND U.K. (DENHAM) SUGGESTED UTILITY OF INFORMAL CONTACTS, PERHAPS BY COLLI, TO SOUND OUT AFRICAN GROUP'S INTENTIONS FOR AUGUST MEETING. COLLI SIDESTEPED ROLE AS POINT MAN, BUT URGED THAT INFORMAL CONTACTS BY DELS BE MADE AND OECD VIEWS COORDINATED FOR THE DEBATE.

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3. COLLI NOTED THAT AT END OF VIENNA TNC COMMISSION, JAMAICAN (NEIL) REMARKED ON USEFULNESS OF SMALL NEGOTIATING GROUPS AND SUGGESTED A UN CODE SUB-GROUP ON SOUTHERN AFRICA. SWISS NOTED THEIR DISSATISFACTION WITH PROCEDURES AT VIENNA MEETING, BUT DID NOT PRESS MATTER; COLLI ACKNOWLEDGED SIMILAR CONCERNS OF A NUMBER OF OECD COUNTRY DELS AT TNC COMMISSION. COLLI GROUP CONSENSUS WAS THAT USE OF SUCH SMALL NEGOTIATING GROUPS IN UN CODE-RELATED WORK IS PREMATURE. COLLI POINTED OUT THAT THIS CONSENSUS DID NOT BEAR ON UN WORKING GROUP CHAIRMAN'S USE OF "FRIENDS" DEVICE TO SOUND OUT ISSUES INFORMALLY.

4. COLLI ALSO RAISED POSTPONEMENT OF COPENHAGEN MEETING ON CODES OF CONDUCT IN SOUTH AFRICA AND ASKED DANISH DEL (NIELSEN) FOR ANY NEWS ON A POSSIBLE RESCHEDULING OF THIS MEETING. DANE ATTRIBUTED CANCELLATION TO POLITICAL REASONS LINKED TO CHANGE OF GOVERNMENT; HE SAID NO FURTHER ACTION WAS LIKELY UNTIL AT LEAST SEPTEMBER. IN RESPONSE TO FRG QUESTION, DANE SAID HIS IMPRESSION WAS MEETING CALLED ON PURELY DANISH INITIATIVE AND NOT ON BEHALF OF EC 9.

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AUSTRALIAN (EVANS) INFORMED GROUP OF FRG APPROACH
REGARDING POSSIBLE FRG-CHAired MEETING; FRG DEL
(SCHEELE) SAID FRG WAS INTERESTED IN A CODE BROADER
THAN THE EC CODE, BUT DID NOT KNOW OF SPECIFIC PLANS
TO CALL A MEETING.

WORK IN UN AND OTHER FORA

5. COLLI GROUP RECOGNIZED IMPORTANT PRECEDENTS FOR
UN CODE WHICH MIGHT BE SET BY RBP AND TRANSFER OF
TECHNOLOGY WORK, SUCH AS WITH REGARD TO LEGAL NATURE
OF THESE DOCUMENTS, AND PLACED GREAT EMPHASIS ON ASSUR-
ING COORDINATION OF THESE EXERCISES WITH TNC CODE
PREPARATIONS. U.S. DEL STRESSED IMPORTANCE OF
AVOIDING INTERFERENCE WITH ON-GOING WORK IN OTHER FORA,
AN URGED EXPLORATION OF OPTIONS FOR HANDLING THESE
ISSUES, WHICH MIGHT INCLUDE (A) REFERENCE OR
INCORPORATION OF WORK OF OTHER BODIES INTO TNC CODE
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EXERCISE; (B) DRAFTING OF SEPARATE TEXTS BY TNC CODE GROUP, OR (C) DRAFTING OF SPECIAL PORTIONS OF TNC CODE TEXT BY OTHER BODIES. FRENCH DEL POINTED TO PROGRESS ON ILLICIT PAYMENTS AGREEMENT AS CREATING IN MIND OF G-77 AN IMPORTANT PRECEDENT FOR BINDING CODES, AND ADDED HIS IMPRESSION THAT ACTIVE G-77 PARTICIPATION IN NEW YORK ILLICIT PAYMENTS MEETING REFLECTED APPRECIATION BY THEM OF VALUE OF THIS LINKAGE. DISCUSSION REACHED NO CONCLUSIONS, BUT COVERED ALL ISSUES WHICH REQUIRE FURTHER STUDY.

6. GROUP FORESAW THAT AUGUST DISCUSSIONS OF REMAINING CHAPTER III AND IV ISSUES OF UN TNC SECRETARIAT TEXT, AND OTHER NEW ISSUES OF DEFINITION OF TNC'S AND LEGAL NATURE OF CODE, ARE LIKELY TO FOLLOW PREDICTABLE LINES. COLLI ATTEMPTED TO ASSIGN TO DELEGATIONS PREPARATION OF PAPERS ON ABOVE ISSUES, BUT RETREATED IN FACE OF CONCERNS ABOUT RISK OF LEAKS (EXPRESSED MOST STRONGLY BY SWEDISH DEL) AND COMMENTS ABOUT "OVER-PREPARATION" FOR RE-RUN OF VIEWS PREVIOUSLY DEBATED AT CODE MEETINGS OR TNC COMMISSION. CONSEQUENTLY, COLLI CONTENTED HIMSELF WITH ASSIGNING SUBJECT AREAS WITH THE OBJECTIVE OF HAVING MEMBERS BE PREPARED TO LEAD COLLI GROUP'S DELIBERATIONS IN NEW YORK, AND TO REPORT ON LATE DEVELOPMENTS IN OTHER RELATED EXERCISES. ASSIGNMENTS WERE: (1) ACTIVITIES IN OTHER FORA (ILO, RBP'S, TRANSFER OF TECHNOLOGY), AND THEIR RELATIONSHIP TO UN TNC CODE (U.K.); (2) LEGAL NATURE OF CODE (SWISS); (3) DEFINITION OF TNC'S (FRANCE); (4) NATIONALIZATION AND COMPENSATION ISSUES, AND HANDLINE OF ILLICIT PAYMENTS ISSUES IN CODE (U.S). COLLI SAID APPROACH TO INFORMATION AND DISCLOSURE WOULD BE GUIDED BY PREVIOUS U.K. PAPER, AND REMAINING CHAPTER IV LIMITED OFFICIAL USE

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ISSUED BY U.S. OUTLINE, ALTHOUGH FRG DEL MADE PLEA FOR GROUP COORDINATION ON JURISDICTIONAL QUESTIONS BEFORE THAT SECTION COVERED.

7. FUTURE SESSIONS: SWEDISH DEL (LEANDER), IN INTERVENTION PRE-ARRANGED BY COLLI, COMMENTED ON UN WORKING GROUP CHAIRMAN NIKLASSON'S PLANNING FOR FUTURE SESSIONS. HE SAID NIKLASSON INTENDS TO AWAIT RESULTS OF AUGUST DISCUSSIONS BEFORE MAKING UP HIS MIND ON NATURE OF PREPARATIONS FOR FIRST SPRING, 1979 TNC CODE MEETING. LEANDER NOTED THE TWO OBVIOUS OPTIONS OF HAVING A NEW SECRETARIAT TEXT OR A

PAPER FROM THE CHAIRMAN "AT LEAST ON CERTAIN PARTS" OF CODE. U.S. DEL (GUDGEON) URGED COLLI GROUP TO GIVE SERIOUS CONSIDERATION IN COMING WEEKS TO OPTIONS FOR PROCEEDING AFTER AUGUST MEETING, ASSUMING COMPLETION OF WORK PROPOSED FOR THAT SESSION. WHILE MUCH DEPENDED ON PROGRESS OF AUGUST SESSION, CHAPTER III (A) AND IV (A) WOULD NOT BE DISCUSSED THERE, AND RESULTS OF LAST SESSION THIS SPRING ON THESE CHAPTERS HAD MADE FEW BREAKTHROUGHS. THEREFORE, NEED TO MAINTAIN PROGRESS IN UN GROUP HAD TO BE WEIGHED AGAINST PREMATURE DRAFTING WHERE ELEMENTS OF CONSENSUS WERE ILL-DEFINED OR LACKING. OPTIONS INCLUDED ALTERNATIVES MENTIONED BY LEANDER AND POSSIBILITY OF FOCUSING FUTURE WORK ON PARTICULAR SUBJECT AREAS, EITHER MAJOR ISSUES ("BIGGIES") OR, PERHAPS, IN ORDER TO PROMOTE SENSE OF PROGRESS AND POSITIVE MOMENTUM, MORE PERIPHERAL ISSUES WHERE AGREEMENT AND A CONSENSUS TEXT MIGHT BE POSSIBLE IN NEAR TERM.

8. ICSID: U.S. DEL, WITH SWISS SUPPORT, SOUGHT TO PUT ON COLLI GROUP'S NEW YORK AGENDA DISCUSSION OF ICSID

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"ADDITIONAL FACILITY", TO CONTINUE EXCHANGE OF VIEWS

BEGUN IN JULY 3 - 4 CIME (REFTEL), GIVEN UPCOMING ICSID ADMINISTRATIVE BOARD AND IMF/IBRD MEETINGS AND LACK OF AN ALTERNATIVE FORUM. U.K. AND SWEDISH DELS OPPOSED SUGGESTION, AND URGED SEPARATE CONSULTATIONS BY EXPERTS IF EXPANSION ISSUE DEEMED URGENT. U.K. DEL STATED THAT UN CODE ISSUES WOULD OCCUPY GROUP IN N.Y. FULL-TIME, AND THAT IT WAS UNLIKELY SHE COULD ADD TO PAPER SHE READ AT CIME. COLLI, WHILE NOTING RELEVANCE OF ICSID TOPIC TO SECTIONS IV (B) AND (C) OF CODE, RETREATED FROM VIEWS EXPRESSED DURING THE CIME ON BROAD POTENTIAL SCOPE OF WORK OF CONTACT GROUP. IN HIS VIEW, PURPOSE OF GROUP IS LIMITED TO REVIEW OF WORK IN OTHER FORA WITH POTENTIAL IMPACT ON OECD INVESTMENT PACKAGE, AND HE STRESSED CURRENT CODE-FOCUS OF GROUP'S ACTIVITY. ALTHOUGH U.S. DEL EMPHASIZED MODEST NATURE OF PROPOSED ICSID DISCUSSION, AGREEMENT OF GROUP DID NOT PROVE POSSIBLE. GROUP LIMITED OFFICIAL USE

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ACCEPTED COLLI PROPOSAL THAT GENERAL REVIEW OF ICSID BE LEFT TO CIME OR ELSEWHERE, AND ICSID BE DISCUSSED IN COLLI GROUP ONLY TO EXTENT APPROPRIATE IN RELATION TO CHAPTER IV ISSUES.

9. GROUP BRIEFLY DISCUSSED STATUS OF TNC CENTER OMNIBUS STUDY OF TNC'S (THE "SEQUEL") AND THE INFORMATION SYSTEM IN LIGHT OF VIENNA MEETING OF THE TNC COMMISSION. NO GOVERNMENTS PLAN COMMENTS ON THE SEQUEL, AND GROUP PREFERRED TO REST ON RESERVATIONS ON CONTENT AND STATUS OF REPORT MADE AT VIENNA. ALL SAW RISK OF COMPROMISING THOSE RESERVATIONS AND APPEARING TO SANCTON REPORT BY OFFERING CORRECTIONS AND SPECIFIC COMMENTS.

10. LEVY REPORTED UN TNC CENTER UNCERTAIN ABOUT VIENNA RESULTS IN TERMS OF DEVELOPMENT OF THE INFORMATION SYSTEM. CONSENSUS OF GROUP WAS THAT APPARENT CAUTION OF CENTER SHOULD BE MATCHED BY WATCHFUL WAITING ON PART OF OECD COUNTRY DELS. IN RESPONSE TO LEVY'S CONCERN THAT TNC CENTER HAD FAILED TO NOTIFY GOS OF A DIRECT CONTACT OF A SWISS COMPANY, U.S. AND CANADIAN DELS EXPLAINED THEY HAVE DEVELOPED PROCEDURAL UNDERSTANDINGS WITH CENTER ON CONTACTS FOR SECTORAL STUDIES, AND EXPRESSED SATISFACTION WITH RESULTS. U.S. DEL SAID HE ASSUMED SAME PROCEDURE WOULD APPLY TO INFORMATION SYSTEM CONTACTS.

OTHER BUSINESS

11. U.S. DEL MADE SOUNDINGS, IN PRIVATE, ON BEHALF

OF U.S. (BOERNER) CHAIRMANSHIP OF CONTACT GROUP AFTER
COLLI DEPARTS IN AUGUST FOLLOWING NY MEETING. U.K.
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DEL (DENHAM) SAID SHE WOULD HAVE DIFFICULTY IN CONSIDERING
CHAIRMANSHIP BECAUSE OF POSSIBILITY SHE MAY CHANGE
JOBS. CANADA AND FRG ARE ON BOARD FOR BOERNER, AND
COLLI REPORTED OTHER POSITIVE CONTACTS. SWEDISH DEL
OFFERED NO COMMENT WHEN APPROACHED, AND SAID THEY HAD
NOT HAD TIME TO CONSIDER MATTER. COLLI ALSO REPORTED
U.K. RELUCTANCE TO TAKE ON ACCOUNTING STANDARDS GROUP
CHAIRMANSHIP GIVEN EC SENSITIVITIES (SEE RFTL) WHICH
U.K. DEL CONFIRMED, AND URGED U.S. TO FILL CHAIR. HE
REPORTED HAVING SPOKEN WITH OTHER DELS ABOUT THIS
POSSIBILITY, AND THAT NOT ONE HAD EXPRESSED

CONCERN IF US WERE TO CHAIR BOTH CONTACT AND
ACCOUNTING GROUPS.

12. COLLI SCHEDULED NEXT CONTACT GROUP MEETING FOR
9 A.M., MONDAY, AUGUST 7, AT CANADIAN UN MISSION
IN NEW YORK. MEETINGS WILL BE HELD EACH MONDAY,
WEDNESDAY, AND FRIDAY MORNING AS FEASIBLE DURING TNC
CODE SESSION. COLLI CONSIDERED PREMATURE U.S. DEL
SUGGESTION THAT A FALL/WINTER STOCK-TAKING MEETING
OF GROUP MIGHT BE SCHEDULED.
SALZMAN

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